UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/580,806	DUFFIELD, DAVID JAY
	Examiner	Art Unit	
	PINKAL R. CHOKSHI	2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>28 November 2011</u>.

2a)☒ This action is **FINAL**.　　　2b)☐ This action is non-final.

3)☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on _____ ; the restriction requirement and election have been incorporated into this action.

4)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

5)☒ Claim(s) <u>7,8 and 10-13</u> is/are pending in the application.

　　5a) Of the above claim(s) _____ is/are withdrawn from consideration.

6)☐ Claim(s) _____ is/are allowed.

7)☒ Claim(s) <u>7,8 and 10-13</u> is/are rejected.

8)☐ Claim(s) _____ is/are objected to.

9)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

10)☐ The specification is objected to by the Examiner.

11)☒ The drawing(s) filed on <u>28 November 2011</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

12)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date <u>09/20/11; 09/21/11</u>.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 11/28/2011 have been fully considered but they are

not persuasive. Regarding claim 8, Applicant alleges that Graunke does not disclose

generating a billing record data in the receiver in response to the receipt of the

authorization key. Examiner respectfully disagrees. In response to applicant's

argument that there is no teaching, suggestion, or motivation to combine the references,

the examiner recognizes that obviousness may be established by combining or

modifying the teachings of the prior art to produce the claimed invention where there is

some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art.

See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d

347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550

U.S. 398, 82 USPQ2d 1385 (2007). In this case, combination of Peterka and Graunke

teaches this limitation, where Peterka discloses (¶0047) that the client device stores a

record of the impulse PPV and transmits the billing record to the service provider at a

later time and Graunke discloses (¶0013, ¶0018, ¶0028) that the keys

(encryption/secret/decryption keys) are delivered to the STB device as represented in

Fig. 3 (elements 51, 63); the keys are provided before the content is received, the

content can be encrypted at any time before or during broadcast, and the billing and

audit information can be provided before any of the other steps. In other words, billing

information is provided after receiving the keys step (step 51) and before decrypting

content step (steps 57-61) as represented in Fig. 3. Therefore, the combination of

Peterka, Candelore and Graunke renders obviousness of the claim.

Furthermore, Applicant asserts that Stewart does not teach that the access

device generates a billing record data in response to the receipt of authorization key

and further alleges that the billing code generated by the billing control system in

Stewart is in response to the user request to view the presentation. Examiner

respectfully disagrees. In response to applicant's arguments against the references

individually, one cannot show nonobviousness by attacking references individually

where the rejections are based on combinations of references. See *In re Keller*, 642

F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986). The claim was rejected using the combination of Peterka,

Candelore, Stewart, where Peterka discloses (¶0047) that the client computer stores a

record of the impulse PPV and transmits the billing record to the service provider at a

later time. However, Peterka does not explicitly teach that the billing record data is

generated in response to the receipt of authorization key. Stewart discloses (¶0023)

that the billing control system at the service provider generates billing code <u>when a user</u>

<u>device receives an authorization code</u> as represented in Fig. 4 (elements 406-410).

Even though the billing control system is located at the service provider end in Stewart,

the general teaching of generating billing record data when a user device receives an

authorization code is disclosed in Stewart. Therefore, it would have been obvious

because a person of ordinary skills in the art has only a finite number of predictable

solutions within his or her technical grasp. Generating billing information after the

authorization code has been received at the receiver is widely known and also taught by

Stewart et al. One skilled in the art would have selected a receiver to generate a billing

information after the authorization code is received is likely a product of ordinary skill

and common sense, not of innovation. It would have been an obvious matter of design

choice to use receiver, instead billing system, to generate billing information, since

applicant has not disclosed that using receiver to generate billing information solves any

stated problem or is for any particular purpose and it appears that the invention would

perform equally well with the billing system of Stewart.

With regard to the dependent claims, the respective rejections are maintained as

Applicant has only argued that the combination of Peterka, Candelore, and

Graunke/Stewart does not cure the deficiencies of claim 8, nevertheless it is the

Examiner's contention that the combination of these references does not contain any

deficiencies. See the rejection below.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   **Claims 7, 8, and 10-13** are rejected under 35 U.S.C. 103(a) as being

unpatentable over US PG Pub 2002/0170053 to Peterka et al (hereafter referenced as

Peterka) in view of US Patent 6,697,489 to Candelore et al (hereafter referenced as

Candelore) and US PG Pub 2003/0005285 to Graunke (hereafter referenced as

Graunke).

Regarding **claim 7,** "an access device" reads on the client computer that

receives the free preview of a program before deciding to order the program

(abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to "comprising: a tuning and a communications unit for transmitting an

impulse purchase message" Peterka discloses (¶0047, ¶0090) that the server

system provides a free preview of the initial portion of the program, where after

watching the preview, user decides to purchase the program content (IPPV) as

represented in Fig. 5 (element 512). Peterka further discloses (¶0036) that the

user computer includes a communication system for transmitting/receiving data

to/from the service provider as represented in Fig. 2 (element 206).

As to "receiving an authorization key transmitted in response to the

transmission of the impulse purchase message and associated with the impulse

purchase program" Peterka discloses (¶0086, ¶0090, ¶0095-¶0101, claim 10)

that the key is provided by a server in response to the purchase request received

from client computer, where the key is associated with the service (IPPV) as

represented in Fig. 5.

As to "a controller and decoder unit responsive to the authorization key

that formats a digital program into a video display" Peterka discloses (¶0090) that

the client computer is provided with the key that is used to decrypt the encrypted

programming content transmitted to client as represented in Fig. 6 (element 616).

As to "a billing generator within said access device which generates a billing record data, wherein the access device transmits the billing record data to the same location as the impulse purchase message" Peterka discloses (¶0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time.

Peterka meets all the limitations of the claim except "communicating to a service provider using an out of band frequency which is different than content providing frequencies." However, Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band frequency transmitter, which is different than the content received, to deliver request to head-end for IPPV program as represented in Fig. 8 (element 721). As to "a controller and decoder formats a digital program into a video display" Candelore discloses (col.4, lines 28-30) that the display device displays the processing digital video signals. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka's system by using out-of-band frequency to communicate between STB and head-end as taught by Candelore in order to separate two different kinds of data from the stream.

Combination of Peterka and Candelore meets all the limitations of the claim except "a billing generator within said access device generates a billing record data in response to the receipt of the authorization key and transmits the billing record data to the provider." However, Graunke discloses (¶0028) that the STB receives the decryption key and decrypts the content, where the billing

information data is collected by the STB and provided to the server before

decrypting content as represented in Fig. 3 (elements 51, 63). Therefore, it

would have been obvious to one of the ordinary skills in the art at the time of the

invention to modify Peterka and Candelore's systems by generating billing data

in response to the receipt of authorization key as taught by Graunke in order to

precisely charge the authorized user by preventing unauthorized reproduction

and distribution of programming content (¶0004).

Regarding **claim 8**, "a method of providing a secure means for purchasing

an impulse purchase program" reads on the method using encryption keys to

distribute program content (abstract) disclosed by Peterka and represented in

Fig. 1 (element 112).

As to "method comprising the steps of: communicating a message to a

service provider means that indicates an impulse purchase selection" Peterka

discloses (¶0047, ¶0090) that the server system provides a free preview of the

initial portion of the program, where after watching the preview, user decides to

purchase the program content (IPPV) as represented in Fig. 5 (element 512).

As to "receiving, at a receiver, authorization information transmitted in

response to the communicated message, and specific to the impulse purchase

program" Peterka discloses (¶0086, ¶0090, ¶0095-¶0101, claim 10) that the key

is provided by a server in response to the purchase request received from client

computer, where the key is associated with the service (IPPV) as represented in
Fig. 5.

As to "receiving, at a receiver, the impulse purchase program" Peterka
discloses (¶0090, ¶0132) that the requested program content is distributed to the
client computer as represented in Fig. 5 (element 520) and Fig. 16B.

As to "processing the impulse purchase program in response to the
authorization information" Peterka discloses (¶0090) that the user is provided
with the key that is used to decrypt the encrypted programming content
transmitted to client computer as represented in Fig. 6 (element 616).

As to "generating a billing record data in the receiver and transmitting the
billing record data from the receiver to the service provider" Peterka discloses
(¶0047) that the client computer stores a record of the impulse PPV and
transmits the billing record to the service provider at a later time.

Peterka meets all the limitations of the claim except "using an out of band
frequency which is different than content providing frequency." However,
Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band
frequency transmitter, which is different than the content received, to deliver
request to head-end for IPPV program as represented in Fig. 8 (element 721).
Therefore, it would have been obvious to one of the ordinary skills in the art at
the time of the invention to modify Peterka's system by using out-of-band
frequency to communicate between STB and head-end as taught by Candelore
in order to separate two different kinds of data from the stream.

Combination of Peterka and Candelore meets all the limitations of the

claim except "generating a billing record data in the receiver in response to the

receipt of the authorization key and transmitting the billing record data to the

service provider." However, Graunke discloses (¶0028) that the STB receives

the decryption key and decrypts the content, where the billing information data is

collected by the STB and provided to the server before decrypting content as

represented in Fig. 3 (elements 51, 63). Therefore, it would have been obvious

to one of the ordinary skills in the art at the time of the invention to modify

Peterka and Candelore's systems by generating billing data in response to the

receipt of authorization key as taught by Graunke in order to precisely charge the

authorized user by preventing unauthorized reproduction and distribution of

programming content (¶0004).

Regarding **claim 10,** "the method wherein the receiving step comprises

receiving the authorization via an out of band frequency" combination of Peterka

and Candelore teaches this limitation, where Candelore discloses (col.5, lines

40-45; col.8, lines 8-65) that the service provider transmits encrypted service key

to the receiving device using out-of-band channel as represented in Fig. 8

(element 720). In addition, same motivation is used as rejection to claim 8.

Regarding **claim 11,** "the method wherein the communicating step

comprises communicating the message via a two way communications interface"

Peterka discloses (¶0058) that the consumer-server connection is typically a 2-way connection as represented in Fig. 1 (element 100) and Fig. 2 (element 206).

Regarding **claim 12,** "the method wherein the billing record is transmitted to the service provider via the two way communications interface" Peterka discloses (¶0058) that the consumer-server communication is a 2-way connection as represented in Fig. 1.

Regarding **claim 13,** "a method of providing a secure means for purchasing an impulse purchase program" reads on the method using encryption keys to distribute program content (abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to "method comprising the steps of: selecting the desired impulse purchase program" Peterka discloses (¶0047, ¶0090) that the server system provides a free preview of the initial portion of the program, where after watching the preview, user decides to purchase the program content (IPPV) as represented in Fig. 5 (element 512).

As to "communicating the desired impulse purchase program selection to a service provider" Peterka discloses (¶0047, ¶0090) that the client contacts the server to request the programming content.

As to "responding to the communicated impulse purchase program selection by transmitting an authorization code to the access device uniquely

associated with the desired impulse purchase program" Peterka discloses

(¶0086, ¶0090, ¶0095-¶0101, claim 10) that the key is provided by a server in

response to the purchase request received from client computer, where the key

is associated with the service (IPPV) as represented in Fig. 5.

As to "transmitting to the access device an impulse purchase program

having an entitlement code" Peterka discloses (¶0123) that the program content

sent to the client computer includes EMM and ECM.

As to "generating a billing record data in the access device and

transmitting the billing record data from the access device to the service provider"

Peterka discloses (¶0047) that the client computer stores a record of the impulse

PPV and transmits the billing record to the service provider at a later time.

As to "storing the authorization code associated with the desired impulse

purchase program into a security module in the access device" Peterka discloses

(¶0086, ¶0090, ¶0095-¶0101, claim 10) that the key is provided by a server to a

client computer in response to the purchase request received from client

computer, where the key is associated with the service (IPPV) as represented in

Fig. 5. However, Peterka does not explicitly teach that the authorization code is

stored into a security module in the access device. However, Candelore

discloses (col.8, line 66-col.9, line 6) that the decoder receives the service key for

each requested session is stored in the memory of the decoder as represented in

Fig. 8 (element 735).

As to "using an out of band frequency which is different than content providing frequency" Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band frequency transmitter, which is different than the content received, to deliver request to head-end for IPPV program as represented in Fig. 8 (element 721).

As to "an entitlement code associated with authorization code stored in the security module and decoding the entitlement code" Candelore discloses (col.3, lines 49-61) that the program data received at the device includes EMM and ECM. Candelore further discloses (col.4, lines 35-56; col.5, lines 30-34) that the device uses the stored key (authorization code) to match it with the entitlements processed from the received content stream.

As to "comparing the entitlement code to the code stored in the security module to permit viewing of the impulse purchase program" Candelore discloses (col.4, lines 50-56) that when the scrambled program content is received in the device, the access requirement (entitlement code) of the program is compared to the entitlements stored in the device. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka's system by using out-of-band frequency to communicate between STB and head-end and compare the stored key with EMM of the stream as taught by Candelore in order to separate two different kinds of data from the stream and also to allow the viewer to view the correct requested IPPV programs (col.2, lines 54-56).

Combination of Peterka and Candelore meets all the limitations of the

claim except "generating a billing record data in the access device in response to

the receipt of the authorization key and transmitting the billing record data to the

service provider." However, Graunke discloses (¶0028) that the STB receives

the decryption key and decrypts the content, where the billing information data is

collected by the STB and provided to the server before decrypting content as

represented in Fig. 3 (elements 51, 63). Therefore, it would have been obvious

to one of the ordinary skills in the art at the time of the invention to modify

Peterka and Candelore's systems by generating billing data in response to the

receipt of authorization key as taught by Graunke in order to precisely charge the

authorized user by preventing unauthorized reproduction and distribution of

programming content (¶0004).

4.   **Claims 7, 8, and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Peterka in view of Candelore, and further in view of US PG Pub 2003/0140348 to

Stewart (hereafter referenced as Stewart).

Regarding **claim 7,** "an access device" reads on the client computer that

receives the free preview of a program before deciding to order the program

(abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to "comprising: a tuning and a communications unit for transmitting an

impulse purchase message" Peterka discloses (¶0047, ¶0090) that the server

system provides a free preview of the initial portion of the program, where after

watching the preview, user decides to purchase the program content (IPPV) as

represented in Fig. 5 (element 512). Peterka further discloses (¶0036) that the

user computer includes a communication system for transmitting/receiving data

to/from the service provider as represented in Fig. 2 (element 206).

As to "receiving an authorization key transmitted in response to the

transmission of the impulse purchase message and associated with the impulse

purchase program" Peterka discloses (¶0086, ¶0090, ¶0095-¶0101, claim 10)

that the key is provided by a server in response to the purchase request received

from client computer, where the key is associated with the service (IPPV) as

represented in Fig. 5.

As to "a controller and decoder unit responsive to the authorization key

that formats a digital program into a video display" Peterka discloses (¶0090) that

the client computer is provided with the key that is used to decrypt the encrypted

programming content transmitted to client as represented in Fig. 6 (element 616).

As to "wherein the access device transmits the billing record data to the

same location as the impulse purchase message" Peterka discloses (¶0047) that

the client computer stores a record of the impulse PPV and transmits the billing

record to the service provider at a later time.

Peterka meets all the limitations of the claim except "communicating to a

service provider using an out of band frequency which is different than content

providing frequencies." However, Candelore discloses (col.8, lines 37-48) that

the set top unit uses out-of-band frequency transmitter, which is different than the

content received, to deliver request to head-end for IPPV program as

represented in Fig. 8 (element 721). As to "a controller and decoder formats a

digital program into a video display" Candelore discloses (col.4, lines 28-30) that

the display device displays the processing digital video signals. Therefore, it

would have been obvious to one of the ordinary skills in the art at the time of the

invention to modify Peterka's system by using out-of-band frequency to

communicate between STB and head-end as taught by Candelore in order to

separate two different kinds of data from the stream.

Combination of Peterka and Candelore meets all the limitations of the

claim except "a billing generator within said access device which generates a

billing record data in response to the receipt of the authorization key." However,

Stewart discloses (¶0023, ¶0039-¶0041) that based on the request received from

the user to view the programming, service provider generates authorization code

and transmits it to the subscriber, where billing control system generates billing

code when a user receives an authorization code as represented in Fig. 4

(elements 406-410). However, it would have been obvious because a person of

ordinary skills in the art has only a finite number of predictable solutions within

his or her technical grasp. Generating billing information after the authorization

code has been received at the receiver is widely known and also taught by

Stewart et al. One skilled in the art would have selected a receiver to generate a

billing information after the authorization code is received is likely a product of

ordinary skill and common sense, not of innovation. It would have been an

obvious matter of design choice to use receiver, instead billing system, to

generate billing information, since applicant has not disclosed that using receiver

to generate billing information solves any stated problem or is for any particular

purpose and it appears that the invention would perform equally well with the

billing system of Stewart.

Regarding **claim 8,** "a method of providing a secure means for purchasing

an impulse purchase program" reads on the method using encryption keys to

distribute program content (abstract) disclosed by Peterka and represented in

Fig. 1 (element 112).

As to "method comprising the steps of: communicating a message to a

service provider means that indicates an impulse purchase selection" Peterka

discloses (¶0047, ¶0090) that the server system provides a free preview of the

initial portion of the program, where after watching the preview, user decides to

purchase the program content (IPPV) as represented in Fig. 5 (element 512).

As to "receiving, at a receiver, authorization information transmitted in

response to the communicated message, and specific to the impulse purchase

program" Peterka discloses (¶0086, ¶0090, ¶0095-¶0101, claim 10) that the key

is provided by a server in response to the purchase request received from client

computer, where the key is associated with the service (IPPV) as represented in

Fig. 5.

As to "receiving, at a receiver, the impulse purchase program" Peterka

discloses (¶0090, ¶0132) that the requested program content is distributed to the

client computer as represented in Fig. 5 (element 520) and Fig. 16B.

As to "processing the impulse purchase program in response to the

authorization information" Peterka discloses (¶0090) that the user is provided

with the key that is used to decrypt the encrypted programming content

transmitted to client computer as represented in Fig. 6 (element 616).

As to "transmitting the billing record data from the receiver to the service

provider" Peterka discloses (¶0047) that the client computer stores a record of

the impulse PPV and transmits the billing record to the service provider at a later

time.

Peterka meets all the limitations of the claim except "using an out of band

frequency which is different than content providing frequency." However,

Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band

frequency transmitter, which is different than the content received, to deliver

request to head-end for IPPV program as represented in Fig. 8 (element 721).

Therefore, it would have been obvious to one of the ordinary skills in the art at

the time of the invention to modify Peterka's system by using out-of-band

frequency to communicate between STB and head-end as taught by Candelore

in order to separate two different kinds of data from the stream.

Combination of Peterka and Candelore meets all the limitations of the

claim except "generating a billing record data in the receiver in response to the

receipt of the authorization key." However, Stewart discloses (¶0023, ¶0039-

¶0041) that based on the request received from the user to view the

programming, service provider generates authorization code and transmits it to

the subscriber, where billing control system generates billing code when a user

receives an authorization code as represented in Fig. 4 (elements 406-410).

However, it would have been obvious because a person of ordinary skills in the

art has only a finite number of predictable solutions within his or her technical

grasp. Generating billing information after the authorization code has been

received at the receiver is widely known and also taught by Stewart et al. One

skilled in the art would have selected a receiver to generate a billing information

after the authorization code is received is likely a product of ordinary skill and

common sense, not of innovation. It would have been an obvious matter of

design choice to use receiver, instead billing system, to generate billing

information, since applicant has not disclosed that using receiver to generate

billing information solves any stated problem or is for any particular purpose and

it appears that the invention would perform equally well with the billing system of

Stewart.

Regarding **claim 13,** "a method of providing a secure means for

purchasing an impulse purchase program" reads on the method using encryption

keys to distribute program content (abstract) disclosed by Peterka and

represented in Fig. 1 (element 112).

As to "method comprising the steps of: selecting the desired impulse purchase program" Peterka discloses (¶0047, ¶0090) that the server system provides a free preview of the initial portion of the program, where after watching the preview, user decides to purchase the program content (IPPV) as represented in Fig. 5 (element 512).

As to "communicating the desired impulse purchase program selection to a service provider" Peterka discloses (¶0047, ¶0090) that the client contacts the server to request the programming content.

As to "responding to the communicated impulse purchase program selection by transmitting an authorization code to the access device uniquely associated with the desired impulse purchase program" Peterka discloses (¶0086, ¶0090, ¶0095-¶0101, claim 10) that the key is provided by a server in response to the purchase request received from client computer, where the key is associated with the service (IPPV) as represented in Fig. 5.

As to "transmitting to the access device an impulse purchase program having an entitlement code" Peterka discloses (¶0123) that the program content sent to the client computer includes EMM and ECM.

As to "transmitting the billing record data from the access device to the service provider" Peterka discloses (¶0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time.

As to "storing the authorization code associated with the desired impulse

purchase program into a security module in the access device" Peterka discloses

(¶0086, ¶0090, ¶0095-¶0101, claim 10) that the key is provided by a server to a

client computer in response to the purchase request received from client

computer, where the key is associated with the service (IPPV) as represented in

Fig. 5. However, Peterka does not explicitly teach that the authorization code is

stored into a security module in the access device. However, Candelore

discloses (col.8, line 66-col.9, line 6) that the decoder receives the service key for

each requested session is stored in the memory of the decoder as represented in

Fig. 8 (element 735).

As to "using an out of band frequency which is different than content

providing frequency" Candelore discloses (col.8, lines 37-48) that the set top unit

uses out-of-band frequency transmitter, which is different than the content

received, to deliver request to head-end for IPPV program as represented in Fig.

8 (element 721).

As to "an entitlement code associated with authorization code stored in the

security module and decoding the entitlement code" Candelore discloses (col.3,

lines 49-61) that the program data received at the device includes EMM and

ECM. Candelore further discloses (col.4, lines 35-56; col.5, lines 30-34) that the

device uses the stored key (authorization code) to match it with the entitlements

processed from the received content stream.

As to "comparing the entitlement code to the code stored in the security module to permit viewing of the impulse purchase program" Candelore discloses (col.4, lines 50-56) that when the scrambled program content is received in the device, the access requirement (entitlement code) of the program is compared to the entitlements stored in the device. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka's system by using out-of-band frequency to communicate between STB and head-end and compare the stored key with EMM of the stream as taught by Candelore in order to separate two different kinds of data from the stream and also to allow the viewer to view the correct requested IPPV programs (col.2, lines 54-56).

Combination of Peterka and Candelore meets all the limitations of the claim except "generating a billing record data in the access device in response to the receipt of the authorization key." However, Stewart discloses (¶0023, ¶0039-¶0041) that based on the request received from the user to view the programming, service provider generates authorization code and transmits it to the subscriber, where billing control system generates billing code when a user receives an authorization code as represented in Fig. 4 (elements 406-410). However, it would have been obvious because a person of ordinary skills in the art has only a finite number of predictable solutions within his or her technical grasp. Generating billing information after the authorization code has been received at the receiver is widely known and also taught by Stewart et al. One skilled in the art would have selected a receiver to generate a billing information

after the authorization code is received is likely a product of ordinary skill and

common sense, not of innovation. It would have been an obvious matter of

design choice to use receiver, instead billing system, to generate billing

information, since applicant has not disclosed that using receiver to generate

billing information solves any stated problem or is for any particular purpose and

it appears that the invention would perform equally well with the billing system of

Stewart.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to PINKAL R. CHOKSHI whose telephone number is

(571)270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Brian T. Pendleton can be reached on 571-272-7527. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

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/PINKAL R CHOKSHI/
Examiner, Art Unit 2425

/Brian T Pendleton/
Supervisory Patent Examiner, Art Unit 2425